

# SENATE BILL REPORT

## SB 5101

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As of March 1, 2013

**Title:** An act relating to a sales and use tax exemption for certain financial information provided to qualifying businesses providing international investment management services.

**Brief Description:** Concerning a sales and use tax exemption for certain financial information provided to qualifying businesses providing international investment management services.

**Sponsors:** Senators Mullet, Hobbs, Litzow, Fain, Murray, Hatfield, Hill, Hewitt and Schoesler.

**Brief History:**

**Committee Activity:** Financial Institutions, Housing & Insurance: 1/22/13, 2/07/13 [DP-WM].

Ways & Means: 2/19/13.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Hobbs, Chair; Mullet, Vice Chair; Benton, Ranking Member; Fain, Hatfield, Nelson and Roach.

**Staff:** Edward Redmond (786-7471)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Dean Carlson (786-7305)

**Background:** Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property (TPP) and some services. If retail sales taxes were not collected when the property or services were acquired by the user, then use taxes are applied to the value of most TPP and some services when used in this state. Prewritten computer software is included within the definition of TPP and is therefore subject to sales or use tax.

In 2007 the Washington Legislature directed the Department of Revenue (DOR) to conduct a study of the taxation of electronically delivered products and to prepare a final report for the Legislature by September 1, 2008. The legislation required the DOR to conduct the study in consultation with a committee consisting of four legislative members, as well as additional

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members representing the industry and government. The report's conclusion stated that legislation implementing tax policy on digital products is necessary in 2009 to: (1) protect the sales and use tax base; (2) establish certainty in the tax code; (3) maintain conformity with the Streamlined Sales and Use Tax Agreement (SSUTA); and (4) encourage economic development. The committee was not able to reach consensus on a specific tax policy proposal because of the differing views on certain fundamental issues surrounding the taxation of digital products. However, the committee did agree that legislation adopting a broad, general imposition approach for digital products would be possible only if the legislation: (1) contains meaningful and easily administered broad-based exemptions for business inputs; (2) provides sales and use tax amnesty to taxpayers who failed to collect tax on digital products for prior periods; (3) maintains conformity with the SSUTA; and (4) protects and promotes the location of server farms and data centers in Washington.

In 2009 the Legislature made numerous amendments to the retail sales and use taxes statutes. The terms digital good, digital automated service, and digital code were defined and, with limited exceptions, sales and use taxes were imposed on the sale of such products. The Legislature provided certain exemptions from the retail sales and use tax including an exemption for standard digital information purchased solely for business purposes. Standard digital information is defined as a digital good consisting primarily of data, facts, or information that is not generated for a specific client or customer.

**Summary of Bill:** A retail sales and use tax exemption is created for the sale of Standard Financial Information (SFI) to Qualifying International Investment Management Companies (QIIMC). SFI is defined as financial data, facts or information, or financial information services, that is developed for more than one single customer. SFI includes, but is not limited to, financial market data, bond ratings, credit ratings, and deposit, loan, or mortgage reports. A QIIMC is defined as a person who is primarily engaged in the business of providing investment management services with at least 10 percent of the gross income derived from such services to persons or collective investment funds outside of the United States, or collective investment funds with at least 10 percent of their investments positioned outside of the United States.

The SFI may be provided in hard copy, in a storage medium, or as a digital product transferred electronically. To receive the tax exemption the seller must obtain an exemption certificate from the buyer or maintain relevant data of sale as authorized by the SSUTA.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on August 1, 2013.

**Staff Summary of Public Testimony (Financial Institutions, Housing & Insurance):**

PRO: This bill came out of a financial cluster workshop we held before session. We looked at ways to promote financial services in the state and to make sure we have a good regulatory environment to make this an attractive, viable place for financial services to locate. As we

discussed this topic, we found that these types of financial services were not taxed before 2009. This bill will remove that sales tax. Russell Investments is in support of this bill. Russell is one of the largest pension fund, investment consulting, and index businesses in the world. Russell is a Washington-based company with approximately 1000 employees in our Seattle offices. In 2007, there was an exemption for standard financial information for investment management companies. In 2009 and 2010, the Legislature passed digital products legislation. As a part of that legislation, the sales tax exemption was broadened from financial data to digital information for all business and then to all digital goods for businesses. When the exemption was expanded to all digital goods, however, it inadvertently impacted the exemption for financial data, meaning any data purchased online with a searchable database is now subject to sales tax. For Russell Investments, the financial impact of this is very large. This bill will correct that mistake and Russell asks for the committee's support.

**Persons Testifying (Financial Institutions, Housing & Insurance):** PRO: Senator Mullet, prime sponsor; Erik Strom, Leanne Webber, Russell Investments.

**Staff Summary of Public Testimony (Ways & Means):** PRO: This clarifies the sales tax application for financial information. During the passing of digital product legislation in 2009 and 2010, the Legislature broadened the exemption for financial data. The business exemption was expanded to all digital goods in 2010, but it left out certain financial data. But now things have changed and much of the data is searchable. We believe the Legislature did not intend to leave out this data. One of the areas that Russell has become aware of is that there are a lot of unemployed and underemployed people in this area in the financial industry. We are trying to reach out to financial firms that could see this state as a good state to do business. We have a lot of employable people. This digital tax issue is important to our business and other businesses that may want to come here.

**Persons Testifying (Ways & Means):** PRO: Cindi Holmstrom, Erik Strom, Russell Investments.